IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP No.877 of 2007
Date of decision: 20.08.2007

Meenakshi Sharma.

-----Petitioner

Vs.

Vice Chancellor, Kurukshetra University & another.

-----Respondents

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE AJAI LAMBA

Present: Mr. Vikas Awasthi, Advocate
for the petitioner.

Mr. Satish Chaudhary, Advocate
for respondents No.1 & 2.

Adarsh Kumar Goel, J.

This petition seeks quashing of order dated 5.9.2006, Annexure P-4, to the effect that Entrance Test for admission to Ph.D. course was compulsory except for certain categories.

Case of the petitioner is that she is an advocate and did her graduation in Arts from Kurukshetra University and then also passed Bachelor of Laws (Professional) and Masters of Law from the Kurushetra University. She applied for Ph.D course and sought exemption from passing the Entrance Test by claiming parity with the categories which are exempted from passing the Entrance Test as per Circular dated 5.9.2006, Annexure P-4.

The relevant Clause in the Circular is as under:-

> "1. The test for Ph.D. Course should be compulsory for all, except the candidate who have qualified NET, regular teachers of the Universities and its affiliated colleges, URS/ JRF/ SRF or paid scholars on a project in science or judges or reputed industrialists or journalists etc."

In the reply filed, the stand taken is that exemption has been granted to certain categories on the recommendation made in the meeting of Dean and Faculties and Chairpersons held on 4.9.2006. The said letter was modified by removing the words "Etc". Exemption of certain categories was based on intelligible differentia which had rational nexus with the object sought to be achieved.

We have heard learned counsel for the parties and perused the record.

It is well settled that mere inequality of treatment does not *per se* amount to discrimination and for any public purpose, reasonable classification on a rational basis is permissible. Reference may be made to judgment of the Hon'ble Supreme Court in ***In re The Special Courts Bill*** AIR 1979 SUPREME COURT 478, wherein after reviewing the earlier decisions, propositions emerging from the earlier judgments were formulated in the following manner:-

> "4. The principle underlying the guarantee of Article 14 is not that the same rules of law should be applicable to all persons within the Indian territory or that the same remedies should be made available to them irrespective of differences of circumstances. It only means that all persons

similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject matter of the legislation their position is substantially the same.

5. By the process of classification, the State has the power of determining who should be regarded as a class for purposes of legislation and in relation to a law enacted on a particular subject. This power, no doubt, in some degree is likely to produce some inequality; but if a law deals with the liberties of a number of well-defined classes, it not open to the charge of denial of equal protection on the ground that it has no application to other persons. Classification thus means segregation in classes which have a systematic relation, usually found in common properties and characteristics. It postulates a rational basis and does not mean herding together of certain persons and classes arbitrarily.

6. The law can make and set apart the classes according to the needs and exigencies of the society and as suggested by experience. It can recognise even degree of evil, but the classification should never be arbitrary, artificial or evasive.

7. The classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible

differentia which distinguishes those that are grouped together from others and (2) that differentia must have a rational relation to the object sought to be achieved by the Act.

8. The differentia which is the basis of the classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between them. In short, while Article 14 forbids class discrimination by conferring privileges or imposing liabilities upon persons arbitrarily selected out of a large number of other persons similarly situated in relation to the privileges sought to be conferred or the liabilities proposed to be imposed, it does not forbid classification for the purpose of legislation, provided such classification is not arbitrary in the sense above mentioned.

9. If the legislative policy is clear and definite and as an effective method of carrying out that policy a discretion is vested by the statute upon a body of administrators or officers to make selective application of the law to certain classes or groups of persons, the statute itself cannot be condemned as a piece of discriminatory legislation. In such cases, the power given to the executive body would import a duty on it to classify the subject-matter of legislation in accordance with the objective inducted in the statute. If the administrative body proceeds to classify persons or things on a basis which has no rational relation to the objective of the legislature, its action can be annulled as of dending against the equal protection clause. On the other hand, if the statute itself does not disclose a definite policy or objective aud it confers authority on another to make selection at its pleasure, the statute would be held on the

face of it to be discriminatory, irrespective of the way in which it is applied."

Applying the above propositions, we are of the view that it cannot be held that classification for the purpose of grant of exemption is not based on any intelligible differentia which has no nexus to the object of exemption.

Accordingly, the writ petition is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

August 20, 2007 **(AJAI LAMBA)**
ashwani **JUDGE**